

ARKANSAS SUPREME COURT

No. CACR 07-452

MICHAEL DUNLAP
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered November 20, 2008

PRO SE REQUESTS FOR
PHOTOCOPYING AT PUBLIC
EXPENSE PURSUANT TO THE
FREEDOM OF INFORMATION ACT
[CIRCUIT COURT OF OUACHITA
COUNTY, CR 2006-141]

REQUESTS DENIED.

PER CURIAM

Petitioner Michael Dunlap was found guilty by a jury of possession of a controlled substance with intent to deliver and possession of drug paraphernalia and sentenced as a habitual offender to an aggregate term of 480 months' imprisonment. The Arkansas Court of Appeals affirmed. *Dunlap v. State*, CACR 07-452 (Ark. App. Nov. 28, 2007).

Now before us are two requests filed by petitioner seeking at public expense, pursuant to the Freedom of Information Act, a copy of any sanctions, grievances, and complaints against his trial attorney.¹ It appears that the material he desires pertains to disciplinary actions by the Committee on Professional Conduct concerning the attorney. Petitioner states in the second request that the material is needed by December 15, 2008, when a hearing is scheduled to be held on his petition pursuant to Arkansas Rule of Criminal Procedure 37.1 now pending in the trial court. He also asks

¹For clerical purposes the requests have been filed under the docket number of petitioner's direct appeal in the Arkansas Court of Appeals because the requests pertain to the proceedings in that criminal case.

for a copy of the closing arguments from his trial that are not contained in the transcript lodged on appeal.

The motion is denied. The Freedom of Information Act, codified as Arkansas Code Annotated § 25-19-101 *et seq* (Repl. 2002), does not require a court to provide photocopying at public expense. *See Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996). A petitioner is not entitled to free copy of material on file with this court unless he or she demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief. *See Austin v. State*, 287 Ark. 256, 697 S.W.2d 914 (1985). Indigency alone does not entitle a petitioner to a free photocopying. *Washington v. State*, 270 Ark. 840, 606 S.W.2d 365 (1980). Petitioner here has cited no specific reason for requiring the requested material beyond contending that it will be needed for the Rule 37.1 hearing.

With respect to the closing arguments, the desired material is not on file with this court inasmuch as it was not made a part of the appeal transcript. As a result, it could not be provided to petitioner, even if he tendered the photocopying fee for it.

In correspondence with one of our staff attorneys, petitioner was advised that the material related to the disciplinary actions was six pages in length and the fee for the material was \$3.00. If appellant submits the fee for the material, the copies will be mailed to him within three days of the receipt of the fee.

Requests denied.